

JOHN GILBERT vs. APC NATCHIQ, INC.
CASE NO. 3:03-CV-00174-RRB

DEPOSITION OF JOHN D. GILBERT
MAY 31, 2006

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF ALASKA

3 JOHN GILBERT,)
4 Plaintiff,)
5 v.)
6 APC NATCHIQ, INC.,)
7 Defendant.)
8 _____)

Case No. 3:03-CV-00174-RRB

9 DEPOSITION OF JOHN D. GILBERT

10 June 7, 2006

11 APPEARANCES:

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17
18 FOR THE DEFENDANT: MS. PATRICIA ZOBEL
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ALSO PRESENT: MR. DOUGLAS SMITH

* * * *

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Page 50

1 Q Lewisville. You're not in Lewiston?
 2 A I actually work at a small place called Scoville, Idaho
 3 which is the Idaho National Engineering Laboratory.
 4 Q And does your job entail any health and safety
 5 responsibilities?
 6 A No, it does not.
 7 Q And how are you paid there?
 8 A Salary position.
 9 Q And how is that calculated, in the sense, is it on a
 10 day rate, an hourly rate, or an annualized?
 11 A I'm not sure to be honest. It's not a day rate, so
 12 it's a yearly salary but I get, again, overtime for
 13 every hour I work overtime.
 14 Q Okay. Have you worked previous to the job with APC on
 15 a day rate?
 16 A No.
 17 Q Did you ever try to negotiate a day rate with anyone?
 18 A No.
 19 Q Have you worked since with anyone on a day rate?
 20 A No.
 21 Q Have you ever tried to negotiate a day rate with any of
 22 these people that you worked with since?
 23 A No.
 24 Q Have you ever brought a wage and hour lawsuit
 25 previously?

Page 51

1 A No.
 2 Q Or since?
 3 A No.
 4 Q Now in your work with APC, you were paid in what
 5 method, day rate?
 6 A Yes.
 7 Q That's a question mark. Okay. And your day rate went
 8 up a variety of times based upon how long you'd been
 9 with the company, is that correct?
 10 A I had several pay raises while I was there, that's
 11 correct.
 12 Q Okay. And your last, I think we established was 475 an
 13 hour, correct?
 14 A Correct.
 15 MR. COVELL: That's a day.
 16 MS. ZOBEL: What did I say, an hour?
 17 MR. COVELL: I think so.
 18 A An hour.
 19 Q (By Ms. Zobel) Okay. Did you have a contract with APC
 20 Natchiq?
 21 A No.
 22 Q Now the number of hours that you actually worked per
 23 day, did that fluctuate?
 24 A Yes.
 25 Q Did you have an understanding with the company as to a

Page 52

1 minimum number of hours that you were expected to work
 2 in exchange for the day rate?
 3 A That would have been 12 hours.
 4 Q Okay. That was your understanding of the expectation?
 5 A Yes.
 6 Q Okay. And you've provided us with -- or your counsel
 7 did, a series of calendars that are dated and show the
 8 dates that you were on the Slope.
 9 A Yes.
 10 Q Okay. And these are previously then -- I did not mark
 11 those as exhibits to this deposition. I just want to
 12 confirm some information regarding them.
 13 A Okay.
 14 Q They are marked, for the record, beginning 0033 and
 15 they go through 115 -- 0115. And those records --
 16 first of all, is that your handwriting on them?
 17 A Yes, it is.
 18 Q And did you keep these while you were working there
 19 contemporaneous?
 20 A Yes, I did. I kept them every day.
 21 Q Okay. And why did you do this?
 22 A Habit. Same book here.
 23 Q Do you do that in your current job?
 24 A Yes, I do.
 25 Q And these record the number of hours, I'm assuming,

Page 53

1 that you worked. For example, there's a 12, as 12
 2 point -- a 21.5, a 13.5, a 12, a 13.5, a 12, and a 12
 3 kind of thing.
 4 A Correct.
 5 Q And those are the dates or the time that you worked, is
 6 that correct?
 7 A Those are the hours I worked in the day.
 8 Q Yes. You answered the question I was trying to ask,
 9 thank you. Later in the records I saw when we get into
 10 2002 that you noted actual hours when you came in. For
 11 example, at random I opened it up to March 25 and the
 12 entry is office work, 6:00 a.m. to 6:00 p.m. and why
 13 did you change your habit then?
 14 A I have no good answer for you there, I just don't know.
 15 Q Okay. But this would reflect that you, on that day --
 16 what would that reflect on that date? The entry March
 17 25th?
 18 A Twelve hours of work on Monday, March 25th.
 19 Q In the office?
 20 A Yes.
 21 Q Okay. And then if we went to another one, May 14th of
 22 2002, on page 78, it says meeting Pat Holland, Paul
 23 Booth, something in design, maybe you can read this to
 24 us.
 25 A Which day are we looking at?

14 (Pages 50 to 53)

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EXHIBIT A - Page 2 of 2 Pages